

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

x

In the Matter of STEPHANIE
WARREN, Parent of Disabled
Child MICHAEL WARREN,

Plaintiff,

- v -

AFFIDAVIT IN SUPPORT
OF AMICI CURIAE

07 CV 9812 (JGK)

NEW YORK CITY DEPARTMENT OF
EDUCATION,

Defendant.

x

State of New York)
County of New York) ss.:

MARIA ROSARIO, being duly sworn, deposes and says:

1. I reside at 1717 Bryant Avenue, Apt. 3G, Bronx, New York 10460.

2. I am the parent of Adriel Rodriguez, an 18-year-old special-education student who is classified as learning disabled. Adriel is most severely delayed in reading (three grades below level), and writing/spelling (four years below grade level). He also has delays in math.

3. I make this affidavit in support of the Amicus Curiae organizations before this Court.

4. Adriel is in the 11th grade at a parochial school in the Bronx, Cardinal Hayes School, attending its Academy Program, a four-year program for learning-disabled students who require

individualized education with related services, counseling and testing accommodations.

5. The Academy Program at Cardinal Hayes High School is a special education program that focuses intensively on reading and literacy skills, with two hours every day of reading and writing remediation. At Cardinal Hayes, Adriel has made educational progress in reading, writing, and math during his attendance in the program, and he is on track for a regents diploma and possible college when he finishes high school.

6. Adriel has attended the Academy Program at Cardinal Hayes High School for the past three years (since 9th grade) at the expense of the New York City Department of Education (DOE).

7. For the 2005-06 school year (ninth grade), tuition was paid by the Department under an order dated March 6, 2006 of Impartial Hearing Officer James McKeever, Esq., in Impartial Hearing No. 102937, after a full hearing. Hearing Officer McKeever ruled that the DOE's proposed public school program was inappropriate, that the Cardinal Hayes High School program was appropriate, and that I acted in good faith and was entitled to tuition payment by the DOE.

8. For the 2006-2007 school year (tenth grade), Adriel's tuition at Cardinal Hayes High School was paid by the DOE under an order dated January 25, 2007 of IHO Michael Kennedy Lloyd, Esq., in Impartial Hearing No. 107002, again after a full

hearing. Hearing Officer Lloyd also ruled that the proposed public school program was inappropriate, that the Cardinal Hayes High School program was appropriate, and that I acted in good faith and was therefore entitled to tuition payment by the DOE.

9. For the 2007-2008 school year (eleventh grade), in its IEP dated February 28, 2007, the DOE offered Adriel a general education class in a public school with resource room - a program completely inappropriate and inadequate to address Adriel's severe delays in reading and spelling caused by his learning disability. Further, the IEP listed goals and objectives for Adriel's 2007-2008 school year that were inappropriate and insufficient to prepare him for the regents diploma that this same IEP specified as the student's goal. Finally, the IEP offered Adriel no realistic transition services to prepare him for his education and/or independent living after high school.

10. After my attorney at Partnership for Children's Rights filed for an Impartial Hearing for tuition for the 2007-08 school year, the DOE agreed to pay the tuition without a hearing. They have agreed to make payments directly to the school and will not require me to pay first and then wait for reimbursement, which I could not afford to do.

11. The tuition for the 2007-2008 school year at Cardinal Hayes High School is \$5,300.00. I am a home attendant with less

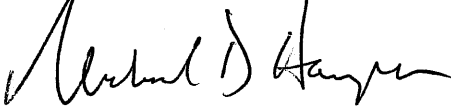
than \$10,000.00 income annually. So far, I have only been able to make payments of about half the tuition. I cannot afford to pay the remaining tuition and wait for reimbursement from the DOE.

12. Without the Impartial Hearing orders each year instructing the DOE to pay Cardinal Hayes High School directly, Adriel could not be attending there, because I could not afford to pay the tuition and then just wait to be reimbursed. In other words, without direct payment, Adriel would have to attend a completely inappropriate program in the public school - one that could not adequately address his serious learning disability.

WHEREFORE, I want to add my support to the request by Partnership for Children's Rights and the other amicus curiae organizations for a ruling that tuition payments made directly to appropriate private schools are legal and necessary under the Individuals With Disabilities Education Act.


MARIA ROSARIO

Sworn to before me this
28th day of May, 2008



Notary Public

MICHAEL D. HAMPDEN
NOTARY PUBLIC, STATE OF NEW YORK
No. 4678628
Qualified in Westchester County
Commission Expires 10/31/10

CERTIFICATE OF TRANSLATION

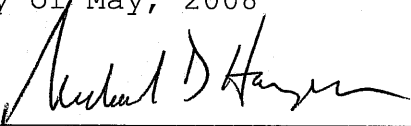
ELIZABETH PASTOR, being duly sworn, deposes and says:

1. I am an administrative assistant on the staff of Partnership for Children's Rights, 271 Madison Avenue, 17th Floor, New York, New York 10016. I am fluent in the Spanish and English languages. I am not a party to this action.

2. On May 28, 2002, I translated the attached Affidavit from English into Spanish, for Maria Rosario, mother of Adriel Rodriguez. She swore that the statements therein were true, and signed her name in the presence of a Notary Public.


ELIZABETH PASTOR

Sworn to before me this
28th day of May, 2008



Notary Public

MICHAEL D. HAMPDEN
NOTARY PUBLIC, STATE OF NEW YORK
No. 4678628
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